

# Public Interest Disclosure (Whistleblowing) Policy

June 2022

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Approving authority:	The Court
Consultation via:	Audit & Risk Committee, University Executive
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Responsible Executive:	University Secretary
Responsible Office:	Directorate of Governance and Legal Services

**HERIOT-WATT UNIVERSITY  
PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWING) POLICY  
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## 1. INTRODUCTION

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- 1.1** Heriot-Watt University is committed to the highest standards of openness, probity and accountability. The University strives to conduct its business with honesty and integrity and expects all staff and members of the University Court to do likewise. However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. All Higher Education Institutions should, therefore, have appropriate channels through which staff and students can make disclosures about perceived irregularities in the running of the University or the activities of colleagues within the University. A culture of openness and accountability is essential in order to prevent such situations occurring or to address them when they do occur.
- 1.2** The aims of this policy are therefore:
- 1.2.1** To encourage University staff, students and members of the University Court to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected wherever it is possible to do so.
- 1.2.2** To provide University staff and students with guidance as to how to raise those concerns.
- 1.2.3** To reassure University staff and students that they are able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken.
- 1.3** This policy does not form a specific term of any employee's contract of employment, and it may be amended at any time. Everyone at the University, whether they are staff or students or members of Court, should be aware that the policy may apply to them if they are questioned during an investigation, or otherwise come to have knowledge of an investigation. Attention is particularly drawn to the duties of confidentiality which arise under this Policy.
- 1.4** This policy should also be read in conjunction with the University's Public Interest Disclosure (Whistleblowing) Procedure revised June 2022.

## 2. DEFINITIONS

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- 2.1** For the purposes of this policy the following definitions apply:

**'staff'**: employees, agency workers and contractors

**'student'**: a person currently enrolled on any Programme of Study at the University  
**Heriot-Watt Group** as defined in the Charter

**"Heriot-Watt Group"** means those entities associated with the University whether by ownership of shares or otherwise and which the Court determines should form

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part of the Heriot-Watt Group for the purposes of the Charter and Statutes, and which are listed in the Ordinances, and “member of the Heriot-Watt Group” shall be construed accordingly

**‘complainant’:** a person who has made a disclosure under this policy

**‘respondent’:** a person against whom the disclosure is raised

### **3. SCOPE**

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- 3.1** This policy applies to all relevant concerns in relation to the University or any member of the Heriot-Watt Group.

### **4. WHAT IS WHISTLEBLOWING?**

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- 4.1** Whistleblowing is the disclosure of information which relates to suspected wrongdoing. These concerns might include but are not necessarily limited to:

- 4.1.1** financial malpractice, impropriety or fraud;
- 4.1.2** failure to comply with a legal obligation or with the rules and regulations of the University;
- 4.1.3** danger to health and safety;
- 4.1.4** damage to the environment;
- 4.1.5** criminal activity or suspected criminal activity where the investigation of such would have an adverse impact on the reputation of the University;
- 4.1.6** academic or professional malpractice;
- 4.1.7** improper conduct or unethical behaviour or bribery;
- 4.1.8** improper use of authority;
- 4.1.9** miscarriage of justice; and/or
- 4.1.10** suppression or concealment of any of the above

- 4.2** This policy is not designed as a means of questioning lawful financial or business decisions taken by the University; nor is it intended to cover concerns about an individual's terms of employment, since these are covered in the University's Grievance, Bullying & Harassment and/or Disciplinary Policies. Further, the purpose of this policy is not to replace the University Complaints Policy or the University's Academic Appeals procedures and students and individuals may be redirected to the appropriate policy to raise a concern. Once a concern has been raised under one policy an individual cannot raise the same issue under another policy.

- 4.3** If an individual is uncertain whether something is within the scope of this policy or not, they may seek advice from the University Secretary, whose contact details are at the end of this policy.

## **5. RAISING A WHISTLEBLOWING CONCERN**

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**5.1** The University hopes that in many cases staff and students will be able to raise any concerns with their line manager or personal tutor. This policy is not, therefore, intended to replace such dialogue as such individuals may be best equipped to agree a way of resolving a concern quickly and effectively.

**5.2** However, where the matter is more serious, or it is felt that an employee's line manager or student's personal tutor has failed to adequately address the concern, or the individual prefers not to raise it with them for any reason, disclosure should be made to the following people directly:

**5.2.1** The University Secretary is the designated officer to whom a formal disclosure should be made in the first instance.

**5.2.2** If the disclosure relates to the University Secretary, then the disclosure should be made to the Principal.

**5.2.3** If the disclosure implicates both the University Secretary and the Principal, the disclosure should be made to the Chair of Court.

Contact details are set out at the end of this policy. Such individuals may be informed of any disclosure in person or in writing (a form which can be used is attached at Appendix 1).

**5.3** Staff and students should try, so far as possible, to provide details of their concern in order to allow the University to investigate the matter properly. Failure to sufficiently particularise a complaint may prevent the University from being able to investigate the complaint properly or at all.

## **6. CONFIDENTIALITY**

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**6.1** The University will aim to treat all disclosures in terms of this policy in a sensitive manner, and if an individual particularly requests that he or she wishes to raise a concern in confidence, every effort will be made to keep the identity of the individual secret. However, the University is unable to give a guarantee of this secrecy, as some serious disclosures could only be pursued by identifying the complainant, either during the course of the internal procedure, or externally (for example if a prosecution ensued). The University cannot give an absolute guarantee that the individual's identity will never be revealed.

**6.2** The University does not, however, encourage staff or students to make disclosures anonymously. Proper investigation may be more difficult or impossible if the University is unable to obtain further information. It is also more difficult to establish whether any allegations are credible. Therefore, only in

exceptional circumstances will anonymous disclosures be considered. Wholly anonymous allegations unsupported by any evidence will not normally be pursued.

- 6.3** Complainants who are genuinely concerned about possible reprisals if their identity is revealed should speak to the University Secretary and, if appropriate and possible, measures can then be taken to preserve confidentiality. If in any doubt, staff or students can seek advice from Public Concern at Work, the independent whistleblowing charity who offer a confidential helpline. Their contact details are at the end of this policy.
- 6.4** Complainants and any member of staff or student involved in the whistleblowing process must ensure that they keep the disclosure and the details relative to it strictly confidential whilst internal processes are on-going. Failure to do so may jeopardise the University's investigation of the matter and could lead to disciplinary action being taken.

## **7. INVESTIGATING A DISCLOSURE**

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- 7.1** Once a concern has been raised, the designated officer will consider the information on face value and decide if the issues raised fall within this policy. Further information on the procedure to be followed can be found in the Whistleblowing Procedure. A right of appeal lies against a decision not to investigate further.
- 7.2** Provided that the issues are not frivolous, malicious or simply too vague, the designated officer will appoint an independent officer (with the appropriate expertise of investigations or knowledge of the subject matter) to undertake a preliminary investigation into the disclosure made. In circumstances which warrant it, the University may call upon the services of its Internal (or External) Auditors to assist in the investigation.
- 7.3** It should be noted that the University reserves the right to suspend an employee or student during the investigation (on full pay where appropriate) if deemed necessary, in accordance with the University's Disciplinary Policy & Procedures.
- 7.4** Where the allegation/investigation relates to a member of the University Court due consideration must be given to Ordinance B11: Removal from membership of the Court. In the primary stage of receipt of a disclosure, the Secretary may determine that the disclosure made falls within the scope of a public interest disclosure under this Policy, in which case the procedures set out in this Policy shall be followed. Such a step shall not preclude the possibility of the further measures being taken to consider whether a person should be removed from the membership of the Court under the terms of this Ordinance B11.
- 7.5** Where possible, the University will endeavour to keep the complainant informed of the progress of the investigation, but details will not be provided at that stage.

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## **8. MALICIOUS AND/OR VEXATIOUS DISCLOSURES**

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- 8.1** If an individual raises a genuine concern, which is not confirmed by subsequent investigation, no action will be taken against that individual.
- 8.2** If, however, an individual makes malicious or vexatious disclosure(s), and particularly if they persist in making them, disciplinary action may be taken against the individual in question (in accordance with the relevant staff/student procedure).
- 8.3** The University may also consider taking disciplinary action if an individual involved in the process fails to maintain confidentiality during the course of the internal procedures. This includes, but is not limited to, the complainant, any member of staff or student questioned in relation to the disclosure.

## **9. DETERMING THE COMPLAINT**

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- 9.1** After investigation, the investigating officer will make a report in writing to the designated officer, outlining the evidence available. The designated officer will make a decision about the complaint, details of which can be found in para.4.2 of the Whistleblowing Procedure. This includes, but is not limited to, making a decision to dismiss the complaint or to take it no further. They may also refer the matter for further internal or external investigation; refer the matter for processing by way of another University Policy (such as disciplinary procedures); refer the matter to the Police; or to refer the matter to an external review, which might include a full hearing. They may find the complaint well founded. The designated officer will write a report and explain the reasons for the decision. Normally, the report will be sent to the complainant, the respondent, the University Secretary, and the Chair of Court.

## **10. SAFEGUARDS**

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- 10.1** Provided any concern raised is in the public interest, complainants should not suffer any detrimental treatment as a result of raising a concern. If an individual believes they have suffered any such treatment they should inform the relevant designated officer immediately.
- 10.2** No member of staff, or student, or member of court, should threaten a complainant, or seek any kind of retaliation, as a result of a disclosure made in terms of this policy. In the event of any such action, the complainant should inform the University Secretary immediately, who may take disciplinary action against the person involved.
- 10.3** The Public Interest Disclosure Act amended the Employment Rights Act 1996 (ERA) to introduce protection for workers (including employees) who “blow the whistle” on wrongdoing at work. Workers have a right not to be dismissed or suffer any detriment at work as a result of making a “protected disclosure”

For the disclosure to be protected, the worker must:

- Make a disclosure of information.
- Reasonably believe that the information tends to show that one or more of the following had occurred or was likely to occur
  - a criminal offence;
  - breach of any legal obligation;
  - a miscarriage of justice;
  - danger to the health and safety of any individual;
  - damage to the environment; or
  - The deliberate concealment of information about any of the above.
- Reasonably believe that the disclosure is “in the public interest”
- Meet further conditions, which depend on the identity of the person to whom the disclosure is made.

## **11. RIGHT OF APPEAL**

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- 11.1** If the complainant or the respondent does not agree with the outcome, or is not satisfied that the matter has been handled fairly, he or she may appeal to the Principal (where the Principal was not the recipient of the original disclosure), or to the Chair of the University Court (where the Chair was not the recipient of the original disclosure). Appeals should be made within 4 weeks from the date of issue of the report, or the outcome letter, which are set out in more detail in the Whistleblowing Procedure. The scope of the appeal is confined to the original complaint, the evidence uncovered during investigation, the relevant decisions and the fairness of the process.
- 11.2** The Principal/Chair of University Court has wide powers to consider an appeal, and has full discretion to determine the process. The outcome of that appeal is final.

## **12. EXTERNAL DISCLOSURES**

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- 12.1** The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing. Save in exceptional cases, it should not be necessary to alert anyone externally.
- 12.2** However, the law recognises that in some circumstances it may be appropriate for an individual to report to an external body such as a regulator. It will very rarely, if ever, be appropriate to alert the media. The University strongly encourages anyone to obtain advice before reporting a concern externally. A list of the external bodies to whom such disclosures may be made can be found at: [http://www.direct.gov.uk/prod\\_consum\\_dg/groups/dg\\_digitalassets/@dg/@en/@](http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/@)

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[employ/documents/digitalasset/dg\\_177605.pdf](#). Advice can be obtained from the whistleblowing charity Protect (formerly Public Concern at Work) who operate a whistleblowing hotline. Their details can be found at the end of this policy.

**12.3** Most external bodies are likely to ask whether a matter raised has been brought to the University's attention and, if not, why not. The University recommends, therefore, that consideration is had as to whether internal routes have been exhausted or why they are inappropriate. Further, it should be noted that in certain circumstances disclosures to external bodies may not be protected by the Act.

**12.4** The National Whistleblowing Standards (Part 9 Arrangements for Students and Trainees) apply to students, trainees, and anyone on apprenticeships and internships working and/or studying within NHS services.

### **13. IMPLEMENTATION**

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**13.1** The University Secretary is responsible for ensuring the effective implementation of this policy. The University will ensure that implementation of this policy is supported by effective procedures guidance and appropriate communications, training and awareness-raising measures, applicable to all users.

### **14. MONITORING AND EVALUATION**

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**14.1** Under the independent review of whistleblowing by PCAW and the Nolan Committee on Standards in Public Life auditing and review of this policy is recommended to ensure that whistleblowing arrangements work effectively, and staff have confidence in them. The University will therefore ensure that this policy is reviewed regularly and invite staff and students to provide any feedback in relation to its application.

### **15. RELATED POLICIES, PROCEDURES AND FURTHER REFERENCE**

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- Disciplinary Procedures and Rules:
- <https://www.hw.ac.uk/uk/services/docs/hr/policies/DisciplinaryPolicyandProceduresapprovedbyCourtJune.pdf>
- Grievance Procedure:
- <https://www.hw.ac.uk/uk/services/docs/hr/policies/global-grievance-policy-procedure.pdf>
- University Complaints Policy:
- [Complaints - Heriot-Watt University \(hw.ac.uk\)](#)
  - Ordinance B11
  - [ordinances.pdf \(hw.ac.uk\)](#)

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- National Whistleblowing Standards
- [inwo.spsso.org.uk/national-whistleblowing-standards](http://inwo.spsso.org.uk/national-whistleblowing-standards)
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- BSI Code of Practice <http://www.bsigroup.com/PAS1998> as recommended by The Chartered Institute of Personnel and Development: <http://www.cipd.co.uk/hr-resources/factsheets/whistleblowing.aspx>
- Student Academic Appeal Policy and Procedure  
<http://www.hw.ac.uk/students/doc/appealprocedures.pdf>

## 16. FURTHER HELP AND ADVICE

- 16.1** The operation of this policy does not impact in any way upon the rights of the individual to take confidential advice from external bodies such as a trade union, solicitor or advice agency.

## 17. CONTACTS

Person	Contact Details
University Secretary	Ruth Moir 0131 451 3128 <a href="mailto:R.J.Moir@hw.ac.uk">R.J.Moir@hw.ac.uk</a>
Principal	Professor Richard Williams 0131 4512 3360 <a href="mailto:principalsoffice@hw.ac.uk">principalsoffice@hw.ac.uk</a>
Chair of Court  The Chair of Court may be contacted via the University Secretary	
Protect (formerly Public Concern at Work)  (independent whistleblowing charity)	Helpline: <b>020 3117 2520</b> Email: Contact:

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	<p><a href="https://protect-advice.org.uk/contact-protect-advice-line/">https://protect-advice.org.uk/contact-protect-advice-line/</a></p> <p>Website:</p> <p><a href="https://protect-advice.org.uk">Protect - Speak up stop harm (protect-advice.org.uk)</a></p>
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**18. POLICY VERSION AND HISTORY**

Version No	Date of Approval	Approving Authority	Brief Description of Amendment
V. 3	xx.xx.xxxx		Version 2 of the Policy was approved by the Audit & Risk Committee on 14.09.2011 for further consultation.  This version 3 incorporates the additional points raised by HWUCU and UCU during that consultation process.  Version 3 was approved by the Audit & Risk Committee on 16.11.12 by correspondence.
V4	December 2014 (anticipated)	Court	Amended to reflect advice received from members of the Audit & Risk Committee and the University lawyers.
V5	April 2018		Policy reviewed after 3 years. Minor amendments to reflect changes of names and refresh links. Reference to Ordinance B11: Removal from membership of the Court included.
V6	June 2022	Court	Policy reviewed after four years. Minor amendments to reflect changes of name and refresh links. Reference to Public Concern at Work updated to Protect. Addition of reference to National Whistleblowing Standards for NHS Placements.
V7	June 2022	Court	Further amendment at request of ARC, to include information on Protected Disclosure.

## Appendix 1

### Public Disclosure Form for Confidential Reporting of Concerns (Whistleblowing)

The University is committed to the highest possible standards of openness, probity and accountability. In line with that commitment the University expects staff and others who have concerns about any aspect of the University's activities to come forward and voice those concerns. If you wish to make a report in writing, please use this pro-forma.

**Please provide details of the background of the concern and provide relevant dates, times, locations and the identities of those involved where possible. You may attach additional sheets if required.**

**Please provide the reasons why you are particularly concerned about the situation.**

Please give your name and details as requested below. The University is only prepared to investigate anonymous allegations in exceptional circumstances. If you insist on withholding your details, please give your reasons for doing so.

Your Name:

Name of School/Service:

Contact Telephone number:

Date:

#### Declaration:

***I confirm that the above statements are true to the best of my knowledge, information and belief. Prior to signing this form, I have read and understood the Public Interest Disclosure (Whistleblowing) Policy June 2022***

(Signature)

**NB. If you are sending this report via internal or external mail please send marked "strictly private and confidential for the attention of the addressee only".**